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FISCAL IMPACT STATEMENT

LS 6453

BILL NUMBER: SB 292

NOTE PREPARED: Apr 9, 2007

BILL AMENDED: Apr 9, 2007

SUBJECT: Various Election Law Matters.

FIRST AUTHOR: Sen. Landske

FIRST SPONSOR: Rep. Pierce

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes the following changes in election law:

Department of Defense ID As Proof of Voter Identification- The bill provides that an identification document issued by the Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that has an indefinite expiration date or an identification issued by an approved institution of higher learning or a Medicare card is an acceptable proof of identification to vote.

Conference Reimbursement- The bill restates county reimbursement procedures for attending the annual election administrators conference.

Small Town Elections- The bill makes procedural changes concerning small town elections.

Voting While Under Lawful Detention- The bill provides that a person who is subject to lawful detention but has not been convicted of a crime is eligible to register and vote until the person has been convicted of a crime and imprisoned following conviction.

Voter Challenges In Long Term Care Facilities- The bill provides that an individual confined to a long term care facility may not be challenged solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record.

Dissolving Candidate Committees- The bill permits the Election Commission or a county election board to dissolve a committee without being required as part of the dissolution (as under current law) to waive outstanding civil penalties previously imposed on the committee. The bill specifies that the chairman or

treasurer of the committee remain liable for any committee debts, notwithstanding the dissolution of the committee.

Reporting Period for Large Contributions- The bill specifies the reporting period for large contributions to candidates for statewide office.

Straight Party Ticket Instructions- The bill revises the instruction to voters who vote a straight party ticket and vote for candidates not on the straight party ticket.

Braille Instructions and Notices At Polls- The bill removes a requirement that certain instructions and notices used at the polls must be printed in braille.

Notification of Absentee Ballot Denials- The bill provides that if a voter's application for an absentee ballot is denied, the county election board must notify the applicant of the denial and tell the applicant how the application can be corrected and can be approved, if possible.

Poll Clerks Asking for Voter Identification- The bill provides that poll clerks and assistant poll clerks may ask a voter to show proof of identification.

Exceptions to Proof of Identification- The bill provides that a voter who executes an affidavit at the polls and is indigent or has a religious objection to being photographed is not required to present proof of identification.

Absentee Voter Signature Comparisons- The bill provides that when a voter votes as an absentee voter, the voter's signature on the absentee ballot affidavit shall be compared with the signature on the voter's voter registration record.

Carrier Envelopes- The bill permits all absentee ballot envelopes and related voter applications that will be sent to the same precinct to be enclosed in the same carrier envelope.

Absentee Ballot Counting- The bill provides for the counting of an absentee ballot received by the county election board before the close of the polls on election day if the ballot is not otherwise successfully challenged.

Returning of Absentee Ballot- The bill requires an absentee voter to return the absentee ballot to the precinct election board or the county election board before the voter votes in person at the precinct.

Absentee Ballots- The bill specifies other absentee ballot procedures.

Counting of Ballots- The bill requires the counting of a ballot (other than an absentee ballot not initialed by the appropriate election officials) that has been marked and cast by a voter in compliance with election law but may otherwise not be counted solely as the result of the act or failure to act of an election officer unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented.

Inspecting Electronic Voting System Registers- The bill permits a county election board to inspect the register or other recording device on an electronic voting system without obtaining the authority of the State Recount Commission. The bill repeals a statute imposing criminal penalties for the inspection of a voting system without the permission of the recount commission.

Special Election of U.S. Representatives- Establishes procedures for conducting a special election for United States Representative in conformity with a federal law applicable when there are more than 100 vacancies.

Special Election of General Assembly Members- The bill provides for special elections when a vacancy exists in the General Assembly in an office formerly held by a person elected as an independent candidate or as the candidate of a minor political party.

Matching Candidate and Ballot Questions/Device Certification Dates- The bill changes several dates concerning the certification of ballot questions and devices to conform to the date in current law for the certification of candidates.

Precinct Boundaries- The bill revises precinct boundary change procedures.

Approval of Certain Precinct Establishment Orders- The bill authorizes the approval of certain precinct establishment orders before the 2007 general election.

Violations- For voting system violations: (A) The bill defines "election" for purposes of the Secretary of State's enforcement of violations; (B) The bill specifies that, in computing the maximum civil penalty, a violation that occurs in more than one county is subject to the maximum civil penalty in each county.

Voting System Technical Oversight Program Account- The bill provides that the Voting System Technical Oversight Program Account is nonreverting and that voting system application fees are to be deposited in the Account. The bill continuously appropriates money in the Account.

Audit of Election Records - The bill authorizes the Election Division to conduct audits to determine compliance with federal and state laws requiring the securing and retention of election records.

Vote Center Pilot County- The bill provides that voters who reside within the portion of a municipality located in a vote center pilot county may vote using vote center pilot county procedures.

Recount Procedures- The bill restates the maximum amount of a cash deposit or bond in a local recount proceeding.

Candidate Ballot Vacancies- The bill amends provisions concerning candidate ballot vacancy procedures.

Penalty Provision- Provides that a person who pays or accepts property to obtain signatures on a petition for ballot access commits a Class D felony if certain conditions exist.

County Bonding of Locally Elected Officials- The bill authorizes a county to purchase blanket bonds to cover the elected officers of one or more local government units within the county.

Exemption of Poll Workers From Social Security Withholdings- The bill provides for an exemption from withholding Social Security taxes from amounts paid to election officials or workers that are less than \$1,300 per year.

School Plan Changes- The bill provides for the initiation of the change of a school corporation's organization plan if 10% of the active voters in the school corporation sign a petition for the change. (Under current law, 20% of the voters in a school corporation must support a petition for a change in the school corporation's

organization plan.)

Mishawaka School Board- The bill provides for the election of the members of the governing body of the Mishawaka school corporation.

Automatic Dialing Machines- The bill provides that the statute that regulates automatic dialing machines does not apply to calls initiated by a public opinion polling organization. The bill provides that the statute that prohibits the use of an automatic dialing-announcing device under certain circumstances does not apply to surveying public opinion.

Spencer County Public Question- The bill requires the Spencer County election board to place an advisory local public question on the November 2007 municipal election ballot asking the voters of the town of Grandview whether they would support funding a storm water utility through a fee added to their utility bills.

Federal Law Update- Updates references to federal law.

Repealers- Repeals obsolete references to: certificates of election issued by the county auditor, paper ballots, and special polling places.

Effective Date: Upon passage; January 1, 2007 (Retroactive); July 1, 2007.

Explanation of State Expenditures: *Matching Candidate and Ballot Questions/Device Certification Dates-* The bill would place the certification of public questions and devices on the same date as the certification of nominees and ballot placement. Under current law, the deadline for Secretary of State certification of independent or minor political party candidates, public questions, and providing counties with political party devices is noon, August 20. The bill would place this deadline at 74 days before the general election. Therefore, the proposed deadline for the 2008 general election would be approximately noon on Friday, August 22, 2008.

Special Election of U.S. Representatives- The Election Division could require additional staff time to process candidate filings for U.S. Representative in the event of a special election. Depending on the number of persons that could file candidacy documents under emergency conditions, the Election Division would be able to process the documents within their existing level of resources.

Background Election Division: The Indiana Election Commission, under which the Election Division operates, reverted \$55,072 to the General Fund at the end of FY 2006. The Election Division had 11 full-time employees and three vacancies as of October 3, 2006.

Audit of Election Records - The Election Division would be required to audit 1% of all precincts in Indiana by June 1 of each year. The audit would focus on the status of precinct election materials retained by a circuit court clerk. There are 5,604 precincts in Indiana which would require approximately 56 annual audits. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Approval of Certain Precinct Establishment Orders- The provision would assist five counties that have not yet established precinct boundaries for the 2007 election. The Election Commission and the Election Division would be able to carry out this provision within their existing level of resources.

Background on the Election Commission/Division: The Indiana Election Commission, under which the Election Division operates, reverted \$55,072 back to the General Fund at the end of FY 2006. The Division had 11 full-time employees and three vacancies as of October 3, 2006.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Automatic Dialing Machines- This provision could reduce the number of actions taken by the Attorney General to investigate acts classified as deceptive under current law with respect to polling organizations and the use of automatic dialing machines.

Explanation of State Revenues: *Dissolving Candidate Committees-* This provision could increase collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, the Election Commission must determine that further effort to collect outstanding civil penalties from a committee is not a prudent use of state resources. This provision would give the Commission the option to waive penalties *after* a committee has been administratively dissolved. Therefore, committees could be dissolved while remaining liable for any civil penalties assessed. As of December 19, 2006, there were 39 committees with \$20,900 in unpaid civil penalties that have been turned over to the Attorney General by the Election Division. Civil penalties collected from candidate committees are deposited into the Campaign Finance Enforcement Account.

Violations- To the extent that a voting violation occurs in more than one county, the Secretary of State would be able to impose a penalty for separate violations. The Secretary of State may impose a civil penalty that may not exceed \$300,000, plus any investigative costs incurred and documented by the Secretary of State. All civil penalties collected under this chapter are deposited in the Voting System Technical Oversight Program Account.

Voting System Technical Oversight Program Account- The bill would make the Program Account non-reverting to the General Fund and the funds within continuously appropriated. Under current law, only civil penalties from voting system violations are deposited into the Program Account. As of December 18, 2006, for the current fiscal year, \$245,000 in revenue has been deposited in the Program Account.

Penalty Provision- If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Automatic Dialing Machines- Under the bill, the state could see a minimal reduction in the amount of fines collected for Class C misdemeanors. (*See Explanation of Local Expenditures*)

Explanation of Local Expenditures: *Conference Reimbursement-* All expenses allowed for newly elected

or appointed clerks or county election board office holders to attend the Election Division instructional conference would be paid from the county general fund. Under current law, only the registration fee is to be paid from the county general fund. The other allowances under current law are: a \$24 per diem, mileage, and lodging equal to state rates.

Voting While Under Lawful Detention- This provision could impact county election board administrative time if additional absentee or vote-by-mail ballots are processed.

Notification of Absentee Ballot Denials- Under current law, denial notices are sent to absent uniformed services and oversees voters. The provision would be extended to all absentee ballot applications. The provision could increase postage costs and increase staff time of county election boards.

Absentee Ballot Counting- County election boards may end up with additional absentee ballots to process. It is likely this provision would be able to be accomplished within existing county election board resources.

Straight Party Ticket Instructions- This provision could affect ballot costs in counties with optical-scan voting systems. The additional language added to straight-party ticket instructions by the bill, would lengthen ballots, which could require additional pages to be printed for use in optical-scan voting systems.

Social Security and Election Workers- This provision of the bill would save county auditors' staff time and expenditure to process paperwork for election worker compensation that exceeds the state's agreement threshold for election workers.

Background- Indiana's exemption threshold for election workers under the state's agreement is currently \$100 per calendar year. Election workers that work the polls for the primary and general elections in the same year often receive compensation that exceeds the \$100 threshold. Counties often have difficulty determining which election workers worked both elections and must spend staff time to get social security numbers and mailing addresses for W-2s. When an election worker's compensation exceeds the threshold they are considered county employees for FICA. The additional employees increase the number of W-2 filings that must be mailed by the county auditor. When election workers exceed the threshold, they are considered part-time county employees and become eligible for unemployment benefits.

Employers must match the Federal Insurance Contributions Act (FICA) contributions made by their employees, if they are not exempted under the agreement. Therefore, county auditors must adjust their payroll systems to pay the employer share of FICA for election workers exceeding the exemption threshold.

Employers must "match" the FICA contributions of full-time, part-time, or contract employee on employer payroll or 7.65% of the employee's earned wages. (Earned wages in excess of \$97,000 annually are not subject to the current Social Security Tax rate of 6.2%.) The remaining 1.45% Medicare Tax is paid regardless if the employee's salary exceeds \$97,000 annually.

Small Town Elections- The bill would remove the requirement that a certificate of nomination from a town convention would no longer have to be filed with county clerks. This provision would minimally reduce the administrative responsibilities of county clerks.

Special Election of U.S. Representatives- County election boards may need additional appropriations to cover the expenses of a special election. Expenses to run an election include: precinct election board per diem, rental of a facility for polling (if necessary), and/or voting equipment (if necessary.)

Background Precinct Election Board Expenses: Based on a small sample of Indiana counties, per diem for election board members range from \$65 to \$150 for inspectors and from \$40 to \$100 for judges, clerks, and sheriffs.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

School Plan Changes- The provision would increase the administrative time of clerks that receive additional petitions regarding change in the composition and election procedure of governing body members. Under current law, 20% of voters within a school corporation must sign such a petition. The bill would require 10% of active voters to sign a petition.

Mishawaka School Board- Municipal elections in Mishawaka are currently conducted with optical-scan voting systems. The public question language would need to be added to the November 2007 ballot. Any impact on ballot costs should be minimal.

A successful public question would lead to election of the school board members beginning with the 2008 general election. Board members would be elected to four-year terms. Members would be elected in a staggered 4-3 election cycle (four elected in the 2008 general election and three in the 2010 general election).

Background- The Mishawaka school board currently has five members. Members are currently appointed to the board by the Mishawaka City Council.

County Bonding of Locally Elected Officials- The impact of this provision on county expenditures is indeterminable and would depend on local action. Bond amounts vary between county and municipal office holders. Municipal financial officer bonding cannot be less than \$15,000 and not more than \$300,000. County auditors must file bonds for an amount not less than \$15,000.

Automatic Dialing Machines- Under current law, persons violating revolving commercial telephone solicitation and message law commit a Class C misdemeanor. Under the bill, public opinion polling organizations acting within their normal charge would be exempt from the misdemeanor provision in current law.

Spencer County Public Question- This provision would minimally increase 2007 election costs for Spencer County to place the public question on the municipal election ballot in the Town of Grandview.

Explanation of Local Revenues: *Dissolving Candidate Committees-* This provision could increase the collection of outstanding civil penalties assessed on candidate committees. Under current law, in order to be administratively dissolved, county election boards must determine that further efforts to collect outstanding civil penalties from a committee are not a prudent use of local resources. The bill would allow boards the option to waive penalties *after* a committee has been administratively dissolved. Therefore, committees could be dissolved while remaining liable for any penalties assessed.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

Recount Procedures- This provision would have the effect of placing an upper bound on the maximum amount of cash deposit or bond set by a trial court in a local recount petition. Under current law, cash

deposits for a recount are placed in the county general fund.

State Agencies Affected: Department of Correction; Election Division.

Local Agencies Affected: County election boards; Trial courts; Local law enforcement agencies; School City of Mishawaka, Saint Joseph County Election Board.

Information Sources: Indiana Election Division; Various county election boards and registration offices; State Budget Agency: *Auditor's Trial Balance Database*; State Budget Agency: FY 2006 General Fund Reversion Statement; Social Security Administration; Jackie Clemens, Clinton County Auditor, 765-438-6823.

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